



OHV Advisory Committee Meeting Minutes

Meeting Minutes			
Meeting/ Project Name	OHV Advisory Committee Meeting (3)		
Meeting Date	4-27-11	Meeting Time	1:00 PM – 4:00 PM
Location/Conference Bridge	Purgatory Chasm State Reservation Sutton, MA	Meeting Host	Phillip Griffiths, EEA Stephanie Cooper, EEA
Attendees			
Griffiths, Philip (EEA)	Stephanie Cooper (EEA)	Ken Anderson	Chris Burton
Chief Ernest Horn	Susan Hilbbert	Randy Toth	Priscilla Chapman
Capt. Chris Baker (OLE)	Dan D'Arcy	Sharon Jordan	Briere, Gary (DCR)
Celia Riechel (EEA)	Sgt. Robert Forsythe (OLE)	Lt. Wilton Gray (OLE)	
Absentees			
Lt. Merri Walker	Lewis Howe	Dr. Peter Masiokas	Tad Ames
Aaron Gross (OLE)	Chris Mossman		

Synopsis of Items Discussed
<p>1. Introductions. Stephanie Cooper, Assistant EEA Secretary for Land and Forest Conservation will take over coordination of the committee. Celia Riechel of EEA will assist.</p> <p>2. Overview of Emergency Regulations, Capt. Baker Emergency regulations were promulgated in order to meet legislative mandate to put in place safety training programs by February. This allows us to address the whole issue more thoroughly and carefully. This committee has the opportunity now to provide input prior to the public meetings, and engage in a more in-depth conversation. Committee members are also able and encouraged to submit comments via the established public input procedure.</p> <p>Committee members expressed their desire to have been better informed of this process at the prior meeting. State agency representatives affirmed their commitment to an open process in which the Committee, as well as the general public, are all afforded sufficient opportunity to comment and share concerns.</p> <p>Discussion of the value of the press release in summarizing the new law and regulations, as a tool for easier understanding. An integrated educational, information, and enforcement strategy, involving press releases, brochures, etc. would be desirable.</p> <p>Review of the public process.</p> <p>Review of regulation changes, regulatory authority, and statutory authority. Regulations serve to clarify laws and provide further detail as necessary for their implementation. The Office of Law Enforcement (OLE) has a mandate to ensure that regulations (Code of Massachusetts Regulations, or</p>

OHV Advisory Committee Meeting Minutes

CMRs) are consistent with laws. In this case, OLE was required by Sec. 23, Ch. 202 of the Acts of 2010 (the OHV law) to amend its regulations to remove inconsistencies with the new law by February 1, 2011. It was decided to comply with this mandate through promulgation of Emergency Regulations, allowing now for a subsequent more thorough review to follow.

The Director of OLE has a further mandate (Sec. 22), to promulgate regulations consistent with the act, including but not limited to, increasing the age at which persons may operate OHVs, regulating OHV engine size and speed capabilities based upon the operator's age, after consultation with this committee and a public hearing.

Final authority rests with the Director of OLE, who is required to, after public hearing, make, alter, amend, or rescind OHV rules and regulations (MGL Ch. 90B, Sec. 29). He is committed to a process of wide consultation within the agency and the public, prior to making a decision.

Regulatory Process:

March 24, 2011: Emergency Regulations filed with Secretary of State

April 7, 2011: Public notice published

May 11, 2011: Public hearing in Boston

May 12, 2011: Public hearing in Worcester

May 13, 2011: Final day for public comments to be submitted, by 5pm.

June 18, 2011: 90 day period expires

Public notice is published in as many ways as OLE can, in order to make it easy for the public to comment. After the 90 day period is over, OLE will go through all the comments received and prepare a response, and make recommendations for any amendments. Our response to public comments will be publically available.

A summary of the age restrictions was discussed. The prohibition on operation of snow and recreation vehicles by children under 10 years of age was in place prior to the new law; no change was mandated in Ch. 202. It is permissible to change sections of the regulations that are not in the statute or mandated. This restriction was kept because it provides for public safety, thus furthering the intent of the new law.

Age restrictions on Snow & Recreation Vehicle Operation in Massachusetts

Under 10 years old	10 to 14 years old	14 to 18 years old	18 years old and over
No snow or recreation vehicle operation permitted.	May operate a snow or recreation vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized event which is supervised by a person age 18 or older and which has been authorized or approved by a municipal permitting authority. For operation of a recreation vehicle, must complete a recreation vehicle safety and responsibility course.	May operate a recreation vehicle after completing a recreation vehicle safety and responsibility course. (Between 14 and 16 years of age) May operate an all terrain vehicle or recreation utility vehicle with an engine capacity equal to or less than 90cc if directly supervised by a person 18 years of age or older. No operation over 90cc. Unrestricted operation of a snow vehicle.	Unrestricted operation of recreation or snow vehicles in compliance with MGL c.90B and 323 CMR 3.00.

The legislation does include exceptions, for vehicle sub-categories and for children preparing for or

OHV Advisory Committee Meeting Minutes

participating in a sanctioned race event. No paperwork is necessary to prove that a child is preparing for an event.

The difficulty of establishing meaningful and significant distinctions between the safeness of different machines based upon size and performance capabilities was discussed. Injuries and fatalities have occurred on many types of machines.

A committee member expressed concern that the requirement for direct supervision of children under age 14 on snowmobiles was absent in the Emergency Regulations. Such a change would require legislative action. The member would support allowing children aged 10-12 to ride under direct supervision on their own land, and those aged 12-14 to ride under direct supervision on trails.

A committee member expressed concern over section 3.03(1)(f) in the regulations, and desires its removal. The member feels that the prohibition on children under 10 years of age riding vehicles was not previously enforced, thus the prohibition should not exist.

Discussion about the value of restricting children under 10 years old from riding recreational and off-highway vehicles.

Committee members were encouraged to formally submit their comments to OLE. Comments may be on the Emergency Regulations or on policy change.

Discussion of Sections 7 and 10, pertaining to vehicle operation in wetlands. Land owners are not required to post their land. It was suggested that section 10 is subsumed under section 7 and is therefore redundant.

A committee member noted that horses can behave erratically around OHVs and other recreational vehicles, and expressed concern that there is no safe way for a vehicle to pass a horse.

A committee member expressed concern that the rules discussed here are relevant to all trail users, and an need to be disseminated widely outside the OHV community.

Discussion of why deer received specific mention of deer rather than other wildlife. Deeryards are easy to describe and delineate.

OLE continues to cooperate with the Department of Environmental Protection (DEP), and will enforce OHV operators who ride in wetlands subject to DEP regulation.

The possibility of this committee agreed upon and made a joint comment was discussed. It could be done if agreement can be reached.

3. OHV Safety Training Update, Sgt. Forsythe

OLE has conducted two safety training classes to date. Each session is two hours long, and attendees must have already completed the online session prior to attending. An adult must attend with children under 14. OLE has also developed a presentation to give to municipal police departments. There is some difficulty in developing training programs that cover the material and that can be easily understood by children.

Discussion of Utility Vehicles, their changing dimensions and weight in past years.

OHV Advisory Committee Meeting Minutes

On-road vehicles need off-road registration to go off-road. There is no fee exemption for OHVs ridden only on private land. The only fee exemption is for some agricultural use vehicles.

A committee member voiced their desire for new registration decals to be more clearly linked to a specific vehicle, and for the state database to be regularly updated to ensure decals are not sent for OHVs an owner no longer has.

Only OLE is offering the safety training currently, but it is working with other organizations in order to expand the availability of training in the future. It is anticipated that additional vendors offering the training will improve the presentation of information and keep costs down.

Committee members will get an access number to take the course online and provide feedback to the agency.

Discussion of the importance of including imagery of environmental damage in the training materials.

4. Other Power Driven Mobility Devices, Gary Briere, DCR

The recent federal Dept. of Justice ruling that public recreational areas be made accessible to wheelchairs and Other Power Driven Mobility Devices (OPMDs) will have a significant impact on state and non-profit recreational lands. Property owners must evaluate all of their properties that are open to the public for suitability for access to OPMDs. People must be able to access publicly open properties with their OPMD, unless the land holder can prove that there is a legitimate reason some devices cannot be used on the property. OPMDs cannot just be excluded because the organization doesn't like them. Once an organization has completed its assessment of a property, it should post it and make the information widely available. A good summary of the ruling can be found at www.americantrails.org.

Because a citizen claiming the need for an OPMD may not be questioned as to the nature of their disability, there is a potential for abuse and a subsequent increase of OHV use throughout the state, and for activities like hunting. The state supports the intent of the law, but is concerned that it might be exploited. The hope is that, with the support of leaders in the OHV rider community, they can ensure that their riders respect the intent of the law.

There is also some concern that private landowners who have traditionally allowed public use of their property may stop because they do not want to have to allow the use of OPMDs.

5. DCR Volunteer Policy

DCR has in the past benefited from a lot of excellent work from volunteers, for trail maintenance and other important work. There are a lot of willing individuals and organizations, but we've found that the current policy on use of volunteers is dense and uses a legal language that makes it fairly inaccessible. The message DCR has gotten is that there is too much bureaucracy, and that insurance requirements and limitations on the use of power equipment by volunteers makes it an often frustrating and inefficient process.

Concern was expressed over the requirement that union labor be used, which leaves the impression that volunteers could not do work (as to clear blowdown after a snowstorm) unless the union agreed.

OHV Advisory Committee Meeting Minutes

The process has been more complicated than anticipated, but the volunteer policy is actively being re-worked to make it easier to understand and less limiting on the activities of volunteers. The DCR Commissioner is personally very interested in seeing the policy changed such that volunteers can more easily play a role in maintaining the quality and extent of recreational opportunities on DCR lands.

6. OHV Program Fund Update

About \$554,000 is currently in the OHV fund. Funds from tickets may not be reflected in that total yet, but should soon. There has not yet been much allocation of funds, but those decisions should be happening soon. The Committee will be important in helping determine how those funds should be used. The state is committed to keeping 25% for increasing OHV riding opportunities.

Procurement details are public record. Inquiries can be made to Janice Santos at the Registry.

Discussion of importance of using OHV funds efficiently and not wasting them on over-printing of decals, mailings, etc. Some costs, such as the development of good management systems for handling registrations, etc., may be large up front, but relatively small expenses moving forward.

Potential uses of fund: Clear communication/fact sheets for local law enforcement agencies.
 Acquisition of new properties for OHV use.
 Rehabilitation of trails/properties damaged by OHV use
 ???

DCR Forest Futures – designation of properties: Committee members would like to see a flow chart or outline of the process by which current DCR properties are evaluated for OHV use. There is an interest in acquiring new lands suitable for OHVs.

Synopsis of Next Steps/Action Items

1. Send access numbers to committee members to enable them to take the online safety training course.
2. Send powerpoint of safety training

Previous Meeting date	April 27, 2011
Next Meeting Date	June 15th, 2011
Next Meeting Time	1 :30 – 4:30 PM
Next Meeting Location	Purgatory Chasm State Reservation